



**REQUEST FOR QUALIFICATIONS (RFQ)**  
**For**  
**AS NEEDED LEGAL SERVICES**

**June 2019**

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**SAWPA  
REQUEST FOR QUALIFICATIONS (RFQ)  
For  
AS NEEDED LEGAL SERVICES**

**NOTICE TO SUBMITTING FIRMS**

1. Qualification Submittals for the RFQ as described herein, will be submitted electronically to Karen Williams at: (kwilliams@sawpa.org), as a single Adobe Acrobat (PDF) file, with search capability to ensure readability and compatibility, not more than 20 pages long (not including cover letter, exhibits and resumes), and not more than 10 megabytes in size.
2. All Qualification Submittals must be received by **4:00 p.m. on Thursday, June 27, 2019**.
3. Responding firms may submit qualifications for all, some, or one of the legal services described.
4. If additional information is needed, contact Karen Williams at (951) 354-4231 or [kwilliams@sawpa.org](mailto:kwilliams@sawpa.org). Email communications are encouraged.
5. Any changes to this RFQ are invalid unless specifically modified by SAWPA and issued as a separate addendum document. Should there be any question as to changes to the content of this document, SAWPA's copy shall prevail. It is the submitting firm's sole responsibility to ensure that their Qualification Submittal, inclusive of any or all addenda, is received at the proper place at the proper time. SAWPA will not accept submittals after the due date/time listed above.

## **Section I – INTRODUCTION AND OVERVIEW**

### **A. GENERAL OVERVIEW**

The Santa Ana Watershed Project Authority (SAWPA) is a Joint Powers Authority with five member agencies: Eastern Municipal Water District, Inland Empire Utilities Agency, Orange County Water District, San Bernardino Valley Municipal Water District, and Western Municipal Water District.

Formed in 1968, SAWPA is governed by the Commission comprised of one appointed Board member from each member agency. There are also Project Agreement committees which operate as autonomous entities and include one to five of the member agencies. SAWPA's FYE 2019 budget is \$30,766,852 with 27 funded positions.

As an integrated regional watershed manager, SAWPA has three major activities that it performs: One Water One Watershed (OWOW), Roundtables and the Inland Empire Brine Line.

OWOW: SAWPA conducts the One Water One Watershed Program, an integrated regional water management program envisioning a sustainable Santa Ana River Watershed that is drought resilient, salt-balanced and supportive of social, economic, and environmental vitality by 2035. Over the past 10 years, SAWPA has worked collaboratively to secure water bonds and IRWM grant funding totaling over \$250 million within the watershed.

Inland Empire Brine Line: SAWPA owns and operates the Inland Empire Brine Line utility, a 73-mile brine collection system responsible for the daily removal of over 500,000 pounds of salt, ensuring the highest and best use of groundwater resources and an expanded ability to reclaim water, providing economic benefit and retaining numerous local jobs.

Roundtables: SAWPA facilitates Roundtables, collaborative forums addressing the region's water resource challenges including implementing TMDLs, water/energy program and other regional partnerships.

The Santa Ana River Watershed, with over 6 million people, spans approximately 2,840 square miles and covers portions of San Bernardino, Riverside, Orange, and a small area of Los Angeles Counties. SAWPA has led the creation of a framework to select the best multi-benefit projects resulting in the completion of 50 projects valued at over \$860 Million throughout the watershed, providing 342,000 acre-feet of new water annually. The Santa Ana River Watershed has, perhaps, the most comprehensive water quality protection program of any watershed in the country due to the ongoing interest and participation of SAWPA, its member agencies, and the Regional Water Quality Control Board. The basin plans for water quality protection that have now become the standard for California were developed in the 1970s with the assistance of SAWPA. Since its inception, SAWPA has partnered with the Regional Board on numerous collaborative efforts.

SAWPA is well suited to address complex issues in the Santa Ana River Watershed due to its 51-year history in leading and governing numerous collaborative efforts working closely with Federal, State, and local agencies to obtain positive results relating to a variety of complex, sometimes controversial, water resource projects and programs. Utilizing the capable skills of SAWPA's staff, multi-agency agreements, consultant contracts, and facilitated discussions, SAWPA's successful programs and projects represent the best in collaboration, information, and data management.

Typical legal activities:

1. Brown Act: Responding to Brown Act questions related to public meetings including agenda content, posting of agenda, special meetings, etc., and serve as agency counsel during public meetings and public hearings.
2. Public Records Requests. Advising staff on response requirements.
3. Public Works Bidding and Contracts. Ensuring bid documents, bid notice publications, bid process, and contract award are in compliance with requirements.
4. Right-of-Way Documents. Easements, license agreements, encroachment permits, etc. Responding to questions related to existing documents, protecting the rights conveyed, and assisting staff on access issues. Preparing new documents when required due to relocation of the pipeline, dedication of right of way to another public entity, etc.
5. Agreements. Preparing agreements when directed by SAWPA and assist in reviewing existing agreements to ensure compliance.
6. Agency Ordinances, Resolutions, Policies and Procedures. Reviewing updates to SAWPA Ordinance No. 8 (Inland Empire Brine Line), Enforcement Response Plan and other industrial pretreatment program documents, resolutions such as the Brine Line rate resolution, policies such as the procurement policy, and other documents that may be required from time to time.
7. Industrial Pretreatment Program. Review documents such as the permit application, permit templates for Collection Stations, Liquid Waste Haulers, Industrial Users, Significant Industrial Users, Categorical Industrial Users, and letters to discharge. Assist staff in implementing the program including interpreting the ERP applied to real world situations. Review letters, orders, etc. prepared by staff.
8. Human Resources. Prepare an Employee Handbook update for review by SAWPA. Prepare associated documents such as new hire forms, termination forms, etc. Alert SAWPA regarding new laws and provide applicable direction. Provide periodic training such as training related to AB 1234, AB 1825 and SB 1300. Assist staff in understanding and applying state law to SAWPA policies and procedures. Provide recommendations for evaluating and possibly implementing a four day per week, 10-hour workday (current policy is 9-80).
9. Construction and Operations Claims. Assist staff in responding to claims received, including but not limited to construction and operational claims. Assist staff in reviewing SAWPA claims submitted to other parties including, but not limited to, damage to Brine Line facilities.
10. Review of templates including standard Terms and Conditions for Work Orders, General Service Agreements, Task Orders, and Construction Agreements. Provide assistance during implementation to ensure compliance with agreements including prevailing wage and insurance requirements.
11. Review Injury and Illness Prevention Plan and ensure that the program elements are consistent with OSHA requirements.
12. Miscellaneous.

## **B. PURPOSE OF REQUEST FOR QUALIFICATIONS**

SAWPA is issuing this Request for Qualifications (RFQ) to select a qualified firm/qualified firms to provide the requested legal services which from time to time are required. Quality of documents

prepared and legal advice, as well as efficiency of delivery are paramount. Services provided by a single firm is preferred but not required. It is preferred that the firm's legal representative reside in a local office located within the watershed. SAWPA is contemplating transitioning from in-house legal counsel to partial-to-full consultant-provided legal services.

These efforts include interaction with, but not limited to, SAWPA staff, member agencies, stakeholders, and funding agencies. Work will be directed by SAWPA General Manager Rich Haller.

### **C. HOW THE SELECTED CONSULTANT WILL BE UTILIZED**

The selected firm(s) shall execute a General Services Agreement. A Task Order will be executed for each Fiscal Year at a minimum. Work shall be performed on an hourly basis. Special tasks will require an estimate of the hours and budget required to complete when requested by SAWPA. Selected firm(s) will perform the services stated herein in accordance with the highest legal, ethical, and professional standards.

The terms and conditions contained herein constitute the full and complete understanding of the parties. However, should you or your firm request additional contractual terms and conditions for consideration, such requests must be clearly identified on **Exhibit E** and submitted at the time of Qualification Submittal. No additional terms and conditions will be accepted following receipt of Qualification Submittals, and SAWPA will consider such additional contractual terms and conditions as part of its evaluation process.

Project /Task Assignment:

Recurring Tasks: Consultant will be requested in writing to perform certain activities on a recurring basis. Work will be performed by the consultant on an hourly basis.

Non-recurring Tasks: As project or task assignments arise, SAWPA will issue a written request for a Scope of Work, Budget and Schedule to the consultant. A separate Task Order will be issued documenting the work to be completed, the negotiated fee and completion date.

### **D. PROJECT SPECIFIC DATES**

The following table identifies the estimated dates/time frame for receipt, evaluation, and award of services under this RFQ. Please note the following key dates when preparing your response to this RFQ.

<b>Description</b>	<b>Date</b>
Release of RFQ	June 6, 2019
Deadline for Written Questions Regarding RFQ	June 20, 2019
Responses to Written Questions Regarding RFQ	June 24, 2019
Qualification Submittals Due Date 4:00 p.m.	June 27, 2019
Qualification Submittals Review and Short List	July 8, 2019
Interviews (if required)	TBD
Selection Recommendation(s) to Commission	July 16, 2019
Possible Agreement(s) Approval	July 16, 2019
Finalize Agreement(s), Commence Work	July 22, 2019

## **E. SELECTION CRITERIA**

The criteria for vendor selection shall be based on, but not limited to, the following:

1. Qualifications and Experience (Firm and Personnel) - Consultant and consultant's primary representative(s) shall have a minimum of five (5) years demonstrated experience, by the references provided in **Exhibit A**, and resumes of key people to address experience and qualifications, educational background, and skills.
2. References
3. Local Office Preferred
4. Price & Payment Terms – **Exhibit C**
5. Exceptions Taken to RFQ – **Exhibit E**
6. Quality of Qualification Submittal (Firm provided all information requested in the qualification submittal, qualification submittal is well-organized and clear).

## **F. EVALUATION AND SELECTION PROCESS**

1. Submittal Review: SAWPA will review and evaluate each submittal to determine if it meets the requirements for the service defined herein. Consultant shall identify any services it will not perform. Failure to meet the requirements will be cause for eliminating the applicant from further consideration.
2. Selection: Based on SAWPA's evaluation, the firms will be ranked. It is anticipated that a contract/contracts will be awarded with the highest-ranking firm(s) being selected. However, SAWPA reserves the right to consider the overall distribution of contracts and may award agreements as it deems necessary, regardless of the assigned rank.

## **Section II – SUBMITTAL REQUIREMENTS**

- A. The submittal must emphasize responding to the requirements set forth herein. Firms must demonstrate their capabilities, background, and expertise, in order for SAWPA to effectively evaluate the submittals, and select the firm(s) that provide the best value to SAWPA based on the selection criteria in Section 1. The Qualification Submittal should include, at a minimum, the following information:
1. Cover Letter
  2. Executive Summary –including a brief summary of the firm’s origin, background, and size of the company, an organizational chart, the overall capabilities of the organization, appropriate licenses and certifications (if applicable), and proximity of company’s resources to SAWPA’s offices and facilities. Further, describe any services requested by the RFQ which will not be performed.
  3. Statement of Qualifications
    - a. Qualifications and Experience (Firm and Personnel) – a description of the firm’s expertise related to services requested and a full discussion of the firm’s recent experience directly related to providing legal services for a public agency. Include resume(s) of key staff to address experience and qualifications, educational background, and skills.
      - i. Must have at least five years of experience in legal services related to public agencies and to the water industry.
      - ii. Have represented the interests and needs of California public agencies and direct experience working on California resources (such as potable water supply, recycled water, wastewater, environmental, etc.) and special district issues.
      - iii. Be willing to provide a client list to demonstrate that no other clients could negatively impact SAWPA.
    - b. References (**Exhibit A**) – provide a minimum of three (3) public agency/special district (preferred) or private clients for whom comparable services have been performed within the last five (5) years. Include the name, mailing address, telephone number and e-mail address of each client’s principal representative.
    - c. List of Subcontractors (**Exhibit B**) – a description of any subcontract arrangements that would be utilized for this discipline of work. Include a full description of the subcontractor’s experience and personnel.
    - d. Fee Schedule – (**Exhibit C**) a schedule of hourly rates; rates for all sub-consultants and percentage markup of reimbursable expenses, if any shall be included. The rates shall be valid for the term of the contract.
  4. Consultant Business Information (**Exhibit D**)
  5. Additions, Deletions and/or Exceptions (**Exhibit E**) – compliance with SAWPA’s contractual terms and/or RFQ requirements. The firm shall note any additions, deletions and/or exceptions to the contractual terms and/or RFQ requirements. If there are no exceptions taken, note in writing that there are none.
- B. SAWPA reserves the right to withhold award of contract for a period of one hundred and twenty (120) days following RFQ due date.

- C. A General Services Agreement (GSA) (**Attachment A**) incorporating the terms and conditions contained herein will be sent to the successful firm(s). Any additional terms and conditions requested by firm(s) must be submitted at the time of your response as part of **Exhibit E** (Additions, Deletions and/or Exceptions) and will be considered as part of the selection/negotiation process.
- D. SAWPA may make such investigations as it deems necessary to determine the ability of the firm(s) to provide the goods and/or services as specified, and the firm(s) shall furnish to SAWPA, as is commercially reasonable, all such information and data for this purpose. SAWPA may discuss or negotiate with one or more firms prior to award and reserves the right to reject any submittal.
- E. Any questions as to the meaning of the scope of work must be submitted in writing and shall be directed to Karen Williams of SAWPA (kwilliams@sawpa.org) who will provide instructions for submitting questions. Email communications are encouraged. To be given consideration, questions must be received by June 20, 2019. Any and all responses to questions and any supplemental instructions will be sent to all prospective firms not later than June 24, 2019. All addenda so issued shall become part of the contract documents. Under no circumstances may the firm, or any representative thereof, contact any other individual for clarification or interpretation of any requirements herein.
- F. SAWPA reserves the right to reject any or all Qualification Submittals, either separately or as a whole and to waive any informality in a Qualification Submittal or to accept any Qualification Submittals presented which it deems best suited to the interest of SAWPA, and is not to be bound to accept the lowest price.
- G. The cost for developing the Qualification Submittals are the sole responsibility of the firm(s). All Qualification Submittals shall become the property of SAWPA.
- H. Be advised that all information contained in Qualification Submittals in response to this solicitation may be subject to the California Public Records Act (Government Code Section 6250 et seq.), and information's use and disclosure are governed by this Act.



## **Section III – SCOPE OF WORK**

### **Legal Services**

#### **A. OBJECTIVE**

SAWPA is seeking consultant services to provide a wide variety of legal services.

#### **FOCUS**

Delivery of high quality, efficient legal services in various areas of law.

#### **B. EXAMPLE TASKS**

The following tasks are examples of the kinds of tasks that may be assigned.

##### Recurring

1. Respond to Brown Act questions related to public meetings including agenda content, posting of agenda, special meetings, etc., and serve as agency counsel during public meetings and public hearings.
2. Public records requests.

Non-Recurring – generally larger levels of effort required. Prior to beginning work scope/expected results, level of effort and schedule to be discussed and documented.

1. Brown Act: review agency procedures for posting agendas for regular, special and emergency meetings.
2. Public records. Review records retention policy.
3. Public Works Bidding and Contracts. Review agreement template and Division 00 (Construction Specifications Institute, typical front end) documents.
4. Right-of-Way documents. Assist staff when site access is restricted inconsistent with established easements, issues with encroachment permits such as prior rights determination, etc. Prepare legal documents required for new easements for pipe realignments, and for license agreement changes.
5. Agreements. Prepare or review agreements such as grant agreements, project agreements, Brine Line agreements, etc.
6. Agency Ordinances, Resolutions, Policies and Procedures. Review new documents prepared by SAWPA staff.
7. Industrial Pretreatment Program. Review existing Ordinance No. 8, Enforcement Response Plan, Policies and Procedures Manual, discharge permit templates, draft discharge permits, and other draft documents.
8. Human Resources. Prepare an Employee Handbook update for review by SAWPA. Prepare associated documents such as new hire forms, termination forms, etc. Alert SAWPA regarding new laws and provide applicable direction. Provide periodic training such as training related to AB 1234, AB 1825 and SB 1300. Assist staff in applying state law and SAWPA policies. Provide recommendations for evaluating and possibly implementing a four day per week, 10-hour work day (current policy is 9-80).

9. Claims. Assist staff in responding to claims received, including but not limited to construction and operational claims. Assist staff in reviewing SAWPA claims submitted to other parties including, but not limited, for damage to Brine Line facilities
10. Work Orders and General Services Agreement/Task Orders. Prepare updated templates including standard Terms and Conditions.
11. Injury and Illness Prevention Plan. Review for compliance with state laws and regulations.
12. Miscellaneous.

## EXHIBIT A

### REFERENCES

Proposer shall provide a **minimum of three (3)** Client References for whom comparable services have been performed within the last five (5) years.

#### REFERENCE #1

CLIENT NAME	
ADDRESS	
CITY, STATE, ZIP CODE	
TELEPHONE #	(     )
E-MAIL ADDRESS	
PRINCIPAL REPRESENTATIVE	
SERVICES PROVIDED	
DATE/TIME FRAME OF SERVICES PROVIDED	

#### REFERENCE #2

CLIENT NAME	
ADDRESS	
CITY, STATE, ZIP CODE	
TELEPHONE #	(     )
E-MAIL ADDRESS	
PRINCIPAL REPRESENTATIVE	
SERVICES PROVIDED	
DATE/TIME FRAME OF SERVICES PROVIDED	

#### REFERENCE #3

CLIENT NAME	
ADDRESS	
CITY, STATE, ZIP CODE	
TELEPHONE #	(     )
E-MAIL ADDRESS	
PRINCIPAL REPRESENTATIVE	
SERVICES PROVIDED	
DATE/TIME FRAME OF SERVICES PROVIDED	

## EXHIBIT B LIST OF SUBCONTRACTORS

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**EXHIBIT C**  
**SANTA ANA WATERSHED PROJECT AUTHORITY**  
**PRICE FORM**

Item	Title (Description)	Hourly Rates
1		\$ _____
2		\$ _____
3		\$ _____
4		\$ _____
5		\$ _____

Work shall commence immediately upon contract execution.

Price(s) shall include **all** labor, equipment, materials, transportation, overhead, travel, profit, insurance, sales and other taxes, licenses, incidentals, and all other related costs necessary to meet the work requirements.

SAWPA encourages a discount for early payment and will include such offers in the evaluation criteria. If a discount is offered, terms are: 5% discount if paid in full within 15 days.

**PROPOSERS:**

Your signature on this document, should you be awarded a contract as defined in this RFQ, signifies that you have fully read and understood this proposal and will comply with all specifications, conditions, unit prices, terms, and delivery of the proposal unless otherwise noted in the "exceptions" portion of the proposal.

Name of Firm:		Title:	
Authorized Signature:		Date:	
Printed/Typed Name:		Mailing Address:	
Phone:		City, State, Zip	
Fax:		E-Mail Address:	

## EXHIBIT D

### PROPOSER'S BUSINESS INFORMATION

All proposers shall submit the information as requested below.

1. Length of time your firm has been in business: \_\_\_\_\_
2. Length of time at current location: \_\_\_\_\_
3. List types and business license number(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. ~~California State Contractor's License number:~~ \_\_\_\_\_
5. Names and titles of all officers of the firm: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Is your firm a sole proprietorship doing business under a different name?  
YES ☐ or NO ☐
7. If yes, please indicate sole proprietorship name and the name you are  
doing business under: \_\_\_\_\_  
\_\_\_\_\_
8. Please indicate your Federal Tax Number: \_\_\_\_\_
9. Is your firm incorporated? YES ☐ or NO ☐
10. Name and remittance address that will appear on invoices: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. Physical Address: \_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT E

### ADDITIONS, DELETIONS AND/OR EXCEPTIONS

Please state any and all Additions, Deletions and Exceptions that you are taking to any portion of this proposal and General Services Agreement (GSA) and Task Order (Attachment A). If not addressed below, then Santa Ana Watershed Project Authority assumes that the vendor will adhere to all terms and conditions listed.

SAWPA will issue an Agreement in its standard form (Attachment A) to the successful firm(s) for the services contemplated herein; a copy of which is attached hereto and incorporated herein by this reference. Any deletion, exception, or modification taken to SAWPA contract terms and conditions will be evaluated, in addition to the specified criteria, and may, itself, result in non-acceptance by SAWPA. Any request for deletion, exception, or modification, if so taken, must be submitted at the time of proposal.

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## ATTACHMENT A

### **SANTA ANA WATERSHED PROJECT AUTHORITY** **AGREEMENT FOR SERVICES BY INDEPENDENT CONSULTANT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Santa Ana Watershed Project Authority ("SAWPA") located at 11615 Sterling Ave., Riverside, CA, 92503 and \_\_\_\_\_ ("Consultant") whose address is \_\_\_\_\_.

#### **RECITALS**

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the parties to this Agreement:

- SAWPA desires to engage the professional services of Consultant to perform such professional consulting services as may be assigned, from time to time, by SAWPA in writing;
- Consultant agrees to provide such services pursuant to, and in accordance with, the terms and conditions of this Agreement and has represented and warrants to SAWPA that Consultant possesses the necessary skills, qualifications, personnel, and equipment to provide such services; and
- The services to be performed by Consultant shall be specifically described in one or more written Task Orders issued by SAWPA to Consultant pursuant to this Agreement.

#### **AGREEMENT**

Now, therefore, in consideration of the foregoing Recitals and mutual covenants contained herein, SAWPA and Consultant agree to the following:

#### **ARTICLE I**

##### **TERM OF AGREEMENT**

**1.01** This agreement shall become effective on the date first above written and shall continue until **December 31, 20\_\_** unless extended or sooner terminated as provided for herein.

#### **ARTICLE II**

##### **SERVICES TO BE PERFORMED**

**2.01** Consultant agrees to provide such professional consulting services as may be assigned, from time to time, in writing by the Commission and the General Manager of SAWPA. Each assignment shall be made in the form of a written Task Order. Each such Task Order shall include, but shall not be limited to, a description of the nature and scope of the services to be performed by Consultant, the amount of compensation to be paid, and the expected time of completion.

**2.02** Consultant may at Consultant's sole cost and expense, employ such competent and qualified independent professional associates, subcontractors, and consultants as Consultant deems necessary to perform each assignment; provided that Consultant shall not subcontract any work to be performed without the prior written consent of SAWPA.

#### **ARTICLE III**

##### **COMPENSATION**

**3.01** In consideration for the services to be performed by Consultant, SAWPA agrees to pay Consultant as provided for in each Task Order.

**3.02** Each Task Order shall specify a total not-to-exceed sum of money and shall be based upon the regular hourly rates customarily charged by Consultant to its clients.

**3.03** Consultant shall not be compensated for any services rendered nor reimbursed for any expenses incurred in excess of those authorized in any Task Order unless approved in advance by the Commission and General Manager of SAWPA, in writing.

## **ATTACHMENT A**

**3.04** Unless otherwise provided for in any Task Order issued pursuant to this Agreement, payment of compensation earned shall be made in monthly installments after receipt from Consultant of a timely, detailed, corrected, written invoice by SAWPA's Project Manager, describing, without limitation, the services performed, when such services were performed, the time spent performing such services, the hourly rate charged therefore, and the identity of individuals performing such services for the benefit of SAWPA. Such invoices shall also include a detailed itemization of expenses incurred. Upon approval by an authorized SAWPA employee, SAWPA will pay within 30 days after receipt of a valid invoice from Consultant.

### **ARTICLE IV**

#### **CONSULTANT OBLIGATIONS**

**4.01** Consultant agrees to perform all assigned services in accordance with the terms and conditions of this Agreement including those specified in each Task Order. In performing the services required by this Agreement and any related Task Order Consultant shall comply with all local, state and federal laws, rules and regulations. Consultant shall also obtain and pay for any permits required for the services it performs under this Agreement and any related Task Order.

**4.02** Except as otherwise provided for in each Task Order, Consultant will supply all personnel and equipment required to perform the assigned services.

**4.03** Consultant shall be solely responsible for the health and safety of its employees, agents and subcontractors in performing the services assigned by SAWPA. Consultant hereby covenants and agrees to:

**4.03a** Obtain a Commercial General Liability and an Automobile Liability insurance policy, including contractual coverage, with limits for bodily injury and property damage in an amount of not less than \$2,000,000.00 per occurrence for each such policy. Such policy shall name SAWPA, its officers, employees, agents and volunteers, as an additional insured, with any right to subrogation waived as to SAWPA, its officers, employees, agents and volunteers. If Commercial General Liability Insurance or other form with an aggregate limit is used, either the general aggregate limit shall apply separately to the work assigned by SAWPA under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. The coverage shall be at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 00 01) and Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto). The Commercial Liability Insurance shall include operations, products and completed operations, as applicable;

**4.03b** Obtain a policy of Professional Liability (errors and omissions) insurance appropriate to the Consultant's profession in a minimum amount of \$2,000,000.00 per claim or occurrence to cover any negligent acts or omissions or willful misconduct committed by Consultant, its employees, agents and subcontractors in the performance of any services for SAWPA. Architects' and engineers' coverage shall include contractual liability;

**4.03c** Obtain a policy of Employer's Liability insurance in a minimum amount of \$1,000,000.00 per accident for bodily injury and property damage.

**4.03d** Provide worker's compensation insurance or a California Department of Insurance-approved self-insurance program in an amount and form required by the State of California and the Employer's Liability Insurance that meets all applicable Labor Code requirements, covering all persons or entities providing services on behalf of the Consultant and all risks to such persons or entities;

**4.03e** Consultant shall require any subcontractor that Consultant uses for work performed for SAWPA under this Agreement or related Task Order to obtain the insurance coverages specified above.

## ATTACHMENT A

**4.03f** Consultant hereby agrees to waive subrogation which any insurer of Consultant may seek to require from Consultant by virtue of the payment of any loss. Consultant shall obtain an endorsement that may be necessary to give effect to this waiver of subrogation. In addition, the Workers Compensation policy shall be endorsed with a waiver of subrogation in favor of SAWPA for all work performed by Consultant, and its employees, agents and subcontractors.

All such insurance policy or policies shall be issued by a responsible insurance company with a minimum A. M. Best Rating of "A-" Financial Category "X", and authorized and admitted to do business in, and regulated by, the State of California. If the insurance company is not admitted in the State of California, it must be on the List of Eligible Surplus Line Insurers (LESLI), shall have a minimum A.M. Best Rating of "A", Financial Category "X", and shall be domiciled in the United States, unless otherwise approved by SAWPA in writing. Each such policy of insurance shall expressly provide that it shall be primary and noncontributory with any policies carried by SAWPA and, to the extent obtainable, such coverage shall be payable notwithstanding any act of negligence of SAWPA that might otherwise result in forfeiture of coverage. Evidence of all insurance coverage shall be provided to SAWPA prior to issuance of the first Task Order. Such policies shall provide that they shall not be canceled or amended without 30 day prior written notice to SAWPA. Consultant acknowledges and agrees that such insurance is in addition to Consultant's obligation to fully indemnify and hold SAWPA free and harmless from and against any and all claims arising out of an injury or damage to property or persons caused by the negligence, recklessness, or willful misconduct of Consultant in performing services assigned by SAWPA.

**4.04** Consultant hereby covenants and agrees that SAWPA, its officers, employees, and agents shall not be liable for any claims, liabilities, penalties, fines or any damage to property, whether real or personal, nor for any personal injury or death caused by, or resulting from, or claimed to have been caused by or resulting from, any negligence, recklessness, or willful misconduct of Consultant. Consultant shall hold harmless, defend and indemnify SAWPA and its officers, employees, agents and volunteers from and against any and all liability, loss, damage, fines, penalties, expense and costs, including, without limitation, attorneys' fees and litigation expenses and costs, of every nature arising out of or related to Consultant's negligence, recklessness, or willful misconduct related to or arising from the performance of the work required under this Agreement and any related Task Order or Consultant's failure to comply with any of its obligations contained in this Agreement and any related Task Order, except as to such loss or damage which was caused by the active negligence or willful misconduct of SAWPA.

**4.05** In the event that SAWPA requests that specific employees or agents of Consultant supervise or otherwise perform the services specified in each Task Order, Consultant shall ensure that such individual(s) shall be appointed and assigned the responsibility of performing the services.

**4.06** In the event Consultant is required to prepare plans, drawings, specifications and/or estimates, the same shall be furnished with a registered professional engineer's number and shall conform to local, state and federal laws, rules and regulations. Consultant shall obtain all necessary permits and approvals in connection with this Agreement, any Task Order or Change Order. However, in the event SAWPA is required to obtain such an approval or permit from another governmental entity, Consultant shall provide all necessary supporting documents to be filed with such entity, and shall facilitate the acquisition of such approval or permit.

### ARTICLE V

#### **SAWPA OBLIGATIONS**

**5.01** SAWPA shall:

**5.01a** Furnish all existing studies, reports and other available data pertinent to each Task Order that are in SAWPA's possession;

**5.01b** Designate a person to act as liaison between Consultant and the General Manager and Commission of SAWPA.

# **ATTACHMENT A**

## **ARTICLE VI**

### **ADDITIONAL SERVICES, CHANGES AND DELETIONS**

**6.01** During the term of this Agreement, the Commission of SAWPA may, from time to time and without affecting the validity of this Agreement or any Task Order issued pursuant thereto, order changes, deletions, and additional services by the issuance of written Change Orders authorized and approved by the Commission of SAWPA.

**6.02** In the event Consultant performs additional or different services than those described in any Task Order or authorized Change Order without the prior written approval of the Commission of SAWPA, Consultant shall not be compensated for such services.

**6.03** Consultant shall promptly advise SAWPA as soon as reasonably practicable upon gaining knowledge of a condition, event, or accumulation of events, which may affect the scope and/or cost of services to be provided pursuant to this Agreement. All proposed changes, modifications, deletions, and/or requests for additional services shall be reduced to writing for review and approval or rejection by the Commission of SAWPA.

**6.04** In the event that SAWPA orders services deleted or reduced, compensation shall be deleted or reduced by a comparable amount as determined by SAWPA and Consultant shall only be compensated for services actually performed. In the event additional services are properly authorized, payment for the same shall be made as provided in Article III above.

## **ARTICLE VII**

### **CONSTRUCTION PROJECTS: CONSULTANT CHANGE ORDERS**

**7.01** In the event SAWPA authorizes Consultant to perform construction management services for SAWPA, Consultant may determine, in the course of providing such services, that a Change Order should be issued to the construction contractor, or Consultant may receive a request for a Change Order from the construction contractor. Consultant shall, upon receipt of any requested Change Order or upon gaining knowledge of any condition, event, or accumulation of events, which may necessitate issuing a Change Order to the construction contractor, promptly consult with the liaison, General Manager and Commission of SAWPA. No Change Order shall be issued or executed without the prior approval of the Commission of SAWPA.

## **ARTICLE VIII**

### **TERMINATION OF AGREEMENT**

**8.01** In the event the time specified for completion of an assigned task in a Task Order exceeds the term of this Agreement, the term of this Agreement shall be automatically extended for such additional time as is necessary to complete such Task Order and thereupon this Agreement shall automatically terminate without further notice.

**8.02** Notwithstanding any other provision of this Agreement, SAWPA, at its sole option, may terminate this Agreement at any time by giving a 10-day written notice to Consultant, whether or not a Task Order has been issued to Consultant.

**8.03** In the event of termination, the payment of monies due Consultant for work performed prior to the effective date of such termination shall be paid after receipt of an invoice as provided in this Agreement.

## **ARTICLE IX**

### **CONSULTANT STATUS**

**9.01** Consultant shall perform the services assigned by SAWPA in Consultant's own way as an independent contractor, in pursuit of Consultant's independent calling and not as an employee of SAWPA. Consultant shall be under the control of SAWPA only as to the result to be accomplished and the personnel assigned to perform services. However, Consultant shall regularly confer with SAWPA's liaison, General Manager, and Commission as provided for in this Agreement.

## **ATTACHMENT A**

**9.02** Consultant hereby specifically represents and warrants to SAWPA that the services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily applicable to an experienced and competent professional consulting organization rendering the same or similar services. Furthermore, Consultant represents and warrants that the individual signing this Agreement on behalf of Consultant has the full authority to bind Consultant to this Agreement.

### **ARTICLE X**

#### **AUDIT AND OWNERSHIP OF DOCUMENTS**

**10.01** All draft and final reports, plans, drawings, specifications, data, notes, and all other documents of any kind or nature prepared or developed by Consultant in connection with the performance of services assigned to it by SAWPA are the sole property of SAWPA, and Consultant shall promptly deliver all such materials to SAWPA. Consultant may retain copies of the original documents, at its option and expense. Use of such documents by SAWPA for project(s) not the subject of this Agreement shall be at SAWPA's sole risk without legal liability or exposure to Consultant. SAWPA agrees to not release any software "code" without prior written approval from the Consultant.

**10.02** Consultant shall retain and maintain, for a period not less than four years following termination of this Agreement, all time records, accounting records, and vouchers and all other records with respect to all matters concerning services performed, compensation paid and expenses reimbursed. At any time during normal business hours and as often as SAWPA may deem necessary, Consultant shall make available to SAWPA's agents for examination of all such records and will permit SAWPA's agents to audit, examine and reproduce such records.

### **ARTICLE XI**

#### **MISCELLANEOUS PROVISIONS**

**11.01** This Agreement supersedes all previous agreements, either oral or written, between the parties hereto with respect to the rendering of services by Consultant for SAWPA and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

**11.02** Consultant shall not assign or otherwise transfer any rights or interest in this Agreement without the prior written consent of SAWPA. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

**11.03** In the event Consultant is an individual person and dies prior to completion of this Agreement or any Task Order issued hereunder, any monies earned that may be due Consultant from SAWPA as of the date of death will be paid to Consultant's estate.

**11.04** Time is of the essence in the performance of services required hereunder. Extensions of time within which to perform services may be granted by SAWPA if requested by Consultant and agreed to in writing by SAWPA. All such requests must be documented and substantiated and will only be granted as the result of unforeseeable and unavoidable delays not caused by the lack of foresight on the part of Consultant.

**11.05** Consultant shall comply with all local, state and federal laws, rules and regulations including those regarding nondiscrimination and the payment of prevailing wages.

**11.06** SAWPA expects that Consultant will devote its full energies, interest, abilities and productive time to the performance of its duties and obligations under this Agreement, and shall not engage in any other consulting activity that would interfere with the performance of Consultant's duties under this Agreement or create any conflicts of interest. If required by law, Consultant shall file a Conflict of Interest Statement with SAWPA.

## ATTACHMENT A

**11.07** Any dispute which may arise by and between SAWPA and the Consultant, including the Consultants, its employees, agents and subcontractors, shall be submitted to binding arbitration. Arbitration shall be conducted by a neutral, impartial arbitration service that the parties mutually agree upon, in accordance with its rules and procedures. The arbitrator must decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. Unless the parties stipulate to the contrary prior to the appointment of the arbitrator, all disputes shall first be submitted to non-binding mediation conducted by a neutral, impartial mediation service that the parties mutually agree upon, in accordance with its rules and procedures.

**11.08** During the performance of the Agreement, Consultant and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status and denial of family care leave. Consultant and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12290 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Consultant shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

**In witness whereof**, the parties hereby have made and executed this Agreement as of the day and year first above-written.

### SANTA ANA WATERSHED PROJECT AUTHORITY

\_\_\_\_\_  
Richard E. Haller, General Manager                      Date

### (CONSULTANT NAME)

\_\_\_\_\_  
(Signature)    Date

\_\_\_\_\_  
Typed/Printed Name



## ATTACHMENT A

### SANTA ANA WATERSHED PROJECT AUTHORITY

TASK ORDER NO. \_\_\_\_\_

CONSULTANT:

VENDOR NO.

VALUE:

PAYMENT: Upon Proper Invoice

REQUESTED BY: \_\_\_\_\_ (date)

FINANCE: \_\_\_\_\_  
Karen Williams, CFO Date

FINANCING SOURCE: Acct. Coding XX  
Acct. Description: General Consulting

COMMISSION AUTHORIZATION REQUIRED: YES ( ) NO ( )  
Commission Memo # \_\_\_\_\_.

This Task Order is issued by the Santa Ana Watershed Project Authority (hereafter "SAWPA") to \_\_\_\_\_ (hereafter "Consultant") pursuant to the Agreement between SAWPA and Consultant entitled *Agreement for Services*, dated \_\_\_\_\_ (expires \_\_\_\_\_).

#### I. PROJECT NAME OR DESCRIPTION

#### II. SCOPE OF WORK / TASKS TO BE PERFORMED

Consultant shall provide all labor, materials and equipment for the Project to perform the specific tasks of \_\_\_\_\_, and as more thoroughly described in Attachment A (or describe full tasks here).

*Please refer to Appendix X for acceptable formats, also found at [www.sawpa.org/html/e\\_req.htm](http://www.sawpa.org/html/e_req.htm)*

#### III. PERFORMANCE TIME FRAME

Consultant shall begin work within five days of the date this Task Order is signed by the Authorized Officer and shall complete performance of such services by or before \_\_\_\_\_, 20\_\_\_\_.

#### IV. SAWPA LIAISON

\_\_\_\_\_ shall serve as liaison between SAWPA and Consultant.

#### V. COMPENSATION

For all services rendered by Consultant pursuant to this Task Order, Consultant shall receive a total not-to-exceed sum of \$ \_\_\_\_\_ in accordance with the schedule of rates. Payment for such services shall be made within 30 days upon receipt of timely and proper invoices from Consultant, as required by the above-mentioned Agreement. Each such invoice shall be provided to SAWPA by Consultant within 15 days after the end of the month in which the services were performed.

# ATTACHMENT A

## VI. CONTRACT DOCUMENTS PRECEDENCE

In the event of a conflict in terms between and among the contract documents herein, the document item highest in precedence shall control. The precedence shall be:

- a. The Agreement for Services by Independent Consultant/Contractor.
- b. The Task Order or Orders issued pursuant to the Agreement, in numerical order.
- c. Exhibits attached to each Task Order, which may describe, among other things, the Scope of Work and compensation therefore.
- d. Specifications incorporated by reference.
- e. Drawings incorporated by reference.

In witness whereof, the parties have executed this Task Order on the date indicated below.

### SANTA ANA WATERSHED PROJECT AUTHORITY

\_\_\_\_\_  
Richard E. Haller, General Manager                      Date

### (CONSULTANT NAME)

\_\_\_\_\_  
(Signature)                      Date

\_\_\_\_\_  
Print /Type Name